

1 JAMES E. TOWERY -- BAR NO. 74058  
ALISON P. BUCHANAN -- BAR NO. 215710  
2 HOGE, FENTON, JONES & APPEL, INC.  
Sixty South Market Street, Suite 1400  
3 San Jose, California 95113-2396  
Phone: (408) 287-9501  
4 Fax: (408) 287-2583

5 Attorneys for  
CONNECTU, INC.  
6 (Formerly CONNECTU, LLC)

7  
8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN JOSE DIVISION  
11

12 THE FACEBOOK, INC. and MARK  
ZUCKERBERG,

13 Plaintiffs,  
14

15 v.

16 CONNECTU, INC. (formerly known as  
CONNECTU, LLC) PACIFIC  
NORTHWEST SOFTWARE, INC.  
17 WINSTON WILLIAMS, and WAYNE  
CHANG,  
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19 Defendants.  
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Case No. 5:07-CV-01389-JW

**CONNECTU'S CIVIL LOCAL RULE  
7-11 MOTION FOR LEAVE TO FILE  
SUPPLEMENTAL BRIEF**

1 Pursuant to Civil Local Rule 7-11, ConnectU, Inc. ("ConnectU") hereby seeks leave from  
2 this Court to file supplemental briefing and evidence relative to ConnectU's Motion to  
3 Disqualify, which is currently pending before this Court.

4 Specifically, at oral argument on August 17, 2009, the Court asked the Founders to submit  
5 to the Court the amount and significance of the debt owed by ConnectU to the Founders, as  
6 referenced in the threatening letter of December 18, 2008 from Michael Underhill to James E.  
7 Towery. (See Exhibit G to the Declaration of James E. Towery in Support of ConnectU's Motion  
8 to Disqualify).

9 On August 21, 2009, pursuant to the Court's request, the Founders submitted their  
10 Response to the Court's Request. In their Response, the Founders advised the Court that the total  
11 debt owed by ConnectU is \$8,240,372. (Founders' Response, p. 1:10). Further, the Founders  
12 advised the Court that the debt is not relevant to the pending Motion to Disqualify because "if the  
13 Term Sheet is ultimately upheld on appeal and enforced by the Ninth Circuit, it would eliminate  
14 the debts created by the Notes and preclude any collection efforts against new ConnectU by the  
15 Founders and Howard Winklevoss." (Founders' Response, p. 1: 17-19).

16 ConnectU believes that it would be helpful to the Court to provide the Court with the  
17 actual documents of which its aware that identify potential debts of ConnectU, so that the Court  
18 can evaluate for itself the relevance and significance of the notes. ConnectU does not know  
19 whether these debts have been satisfied or not. These are merely documents that came to light  
20 during the settled litigation. Thus, ConnectU now seeks leave, pursuant to Civil L.R. 7-11, to  
21 submit the actual promissory notes at issue along with a very short supplemental brief describing  
22 the significance of the notes from ConnectU's perspective.

23 As stated in the Declaration of Alison P. Buchanan filed in support of this Motion,  
24 ConnectU sought an agreement with the Founders to allow ConnectU to file supplemental  
25 briefing. ConnectU was unable to reach an agreement with the Founders.

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1 DATED: August 26, 2009

2 /s/

3 James E. Towery  
4 HOGE, FENTON, JONES & APPEL, INC.  
5 Attorneys for ConnectU, Inc.  
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**CERTIFICATE OF SERVICE**

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on August 26, 2009.

DATED: August 26, 2009

/s/

James E. Towery  
HOGE, FENTON, JONES & APPEL, INC.  
Attorneys for ConnectU, Inc.

**Exhibit A**

1 JAMES E. TOWERY -- BAR NO. 74058  
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**EXHIBIT A TO CONNECTU'S  
MOTION TO FILE SUPPLEMENTAL  
BRIEF**

**CONNECTU'S SUPPLEMENTAL  
BRIEF IN SUPPORT OF  
CONNECTU'S MOTION TO  
DISQUALIFY COUNSEL**

1 At the August 17, 2009 hearing on ConnectU's Motion to Disqualify, the Court requested  
2 that the Founders submit to the Court the amount and significance of the debt owed by ConnectU  
3 to the Founders, as referenced in the threatening letter of December 18, 2008 from Michael  
4 Underhill to James E. Towery. (See Exhibit G to the Declaration of James E. Towery in Support  
5 of ConnectU's Motion to Disqualify).

6 On August 21, 2009, pursuant to the Court's request, the Founders submitted their  
7 Response to the Court's Request. In their Response, the Founders advised the Court that the total  
8 debt owed by ConnectU is \$8,240,372. (Founders' Response, p. 1:10). Further, the Founders  
9 advised the Court that the debt is not relevant to the pending Motion to Disqualify because "if the  
10 Term Sheet is ultimately upheld on appeal and enforced by the Ninth Circuit, it would eliminate  
11 the debts created by the Notes and preclude any collection efforts against new ConnectU by the  
12 Founders and Howard Winklevoss." (Founders' Response, p. 1: 17-19).

13 ConnectU believes that it would be helpful to the Court to provide the Court with the  
14 documents supporting potential debts in this case, so that the Court can evaluate for itself the  
15 relevance and significance of the notes. True and correct copies of the actual Promissory Notes  
16 previously provided by the Founders in discovery are attached as Exhibit A to the Declaration of  
17 James E. Towery filed with in support of Supplemental Briefing.

18 With respect to the Court's inquiry regarding the significance of this debt and in response  
19 to the Founders' position that this debt is not relevant to the pending Motion to Disqualify by  
20 ConnectU, it is important to note that there exists no provision in any of the subject Promissory  
21 Notes that references the debt being contingent on any other act or condition (i.e., upon the  
22 upholding of the Term Sheet). Further, ConnectU understands that some of the Promissory Notes  
23 were created after the creation of the Term Sheet; thus, the force and effect of the Term Sheet on  
24 those Notes is unclear. Finally, it is ConnectU's understanding that at least some of the  
25 Promissory Notes represent debts incurred for legal fees paid to ConnectU's former counsel,  
26 Finnegan, Henderson, Farabow, Garrett & Dunner, LLP.

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1 DATED: August 26, 2009

2 /s/

James E. Towery  
HOGE, FENTON, JONES & APPEL, INC.  
Attorneys for ConnectU, Inc.

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**Exhibit B**

1 JAMES E. TOWERY -- BAR NO. 74058  
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Case No. 5:07-CV-01389-JW

**EXHIBIT B TO CONNECTU'S  
MOTION TO FILE SUPPLEMENTAL  
BRIEF**

**DECLARATION OF JAMES E.  
TOWERY IN SUPPORT OF  
CONNECTU'S SUPPLEMENTAL  
BRIEF IN SUPPORT OF  
CONNECTU'S MOTION TO  
DISQUALIFY COUNSEL**

1 I, James E. Towery, declare:

2 1. I am a shareholder in the law firm of Hoge, Fenton, Jones & Appel, Inc., counsel  
3 for ConnectU, Inc ("ConnectU"). I am a member of the State Bar of California and the Ninth  
4 Circuit. I make this declaration in support of ConnectU's Supplemental Brief in Support of its  
5 Motion to Disqualify.

6 2. Attached hereto and incorporated herein as Exhibit 1 are true and correct copies of  
7 the actual Promissory Notes referenced in the Founders' Response to the Court's Request at the  
8 August 17, 2009 Hearing Concerning ConnectU Debt.

9 I declare under penalty of perjury under the laws of the United States that the above facts  
10 are within my personal knowledge; that I can testify to the same if called to do so in a court of  
11 law; that the foregoing is true and correct; and that this declaration was executed on the 26<sup>th</sup> day  
12 of August, 2009, at San Jose, California.

13 /s/

14 James E. Towery  
15 HOGE, FENTON, JONES & APPEL, INC.  
16 Attorneys for ConnectU, Inc.  
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**Exhibit 1**

**DOCUMENTS SUBJECT TO CIVIL  
LOCAL RULE 7-11 MOTION FOR LEAVE  
TO FILE DOCUMENTS UNDER SEAL**